

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 1341 of 1984

For Approval and Signature:

Hon'ble MR.JUSTICE S.M.SONI

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

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,29

Versus

PV VYAS OR SUCCESSOR IN OFFICE

Appearance:

MR ND NANAVATI for Petitioners

Mr.S.P.Dave, A.G.P., for resp.no.1 to 4

MR TV SHAH for Respondent No. 5, 6, 7, 8, 9,10,11,12,13,14,15,16,1
,18,19,20,21,22,23,24,25,26,27,28,29

CORAM : MR.JUSTICE S.M.SONI

Date of decision: 23/04/96

ORAL JUDGEMENT

Petitioners have filed this petition for a writ of mandamus or any appropriate writ, direction or order to exercise the authority by the respondents nos.1 to 3 under the Rules and implement the Rules against the

unauthorised persons and to take any action under the criminal or other law to permanently restrain them from carrying on quarrying operations in any area reserved or unreserved in S.No.100 or 103 part in Dungarpur village in Junagadh District. It is also prayed for a direction to collect rents and royalties from the persons unauthorisedly carrying on quarrying operations in the said survey no.100 or 103 part.

Few facts necessary to appreciate the contention raised and relief sought are as under. Petitioners are miners carrying on excavation work of lime from quarries. In view of the amended Rules in Gujarat Minor Mineral Rules, S.No.100 and 103 Part of village Dungarpur in Junagadh District were plotted in as many as 465 plots and each plot was granted to the miners as shown in Annexure B vide rules 33A to 33E. It is the case of the petitioners that one Harijan Gora Punja is acting high-handedly and allotting the plots which have now remained excavable, as out of 465 plots, 365 plots have become exhausted and could not be excavated. Said Gora Punja is giving the said plots to his persons, who are not covered by the definition of "miner" and real persons to whom that different plots were allotted are deprived of their rights to excavate. According to the petitioners, said Gora Punja has usurped the powers of the Government Officers and earns a huge amount due to his political influence and any of the complaint of the plot holders to the Government falls on the deaf ears of the officers and indirectly there is a connivance of the officers and the excavation is allowed in those plots. According to the petitioners, the permits granted to those plot holders have expired and are not renewed also and yet unauthorised persons are carrying out excavation in those plots. Despite the fact that the said permits are non-transferable, yet the original parwanadars have transferred their parwanas in favour of unauthorised persons in clear breach of the said condition. To support the petition, the petitioners have produced the map at Annexure A and the list of allottees to whom the plots were allotted. Petitioner no.1 had made a representation to the above effect. However, the same is not responded to and, therefore, the present petition for the reliefs stated above.

Short question that arises in this petition is whether said Harijan Gora Punja has taken over possession of the plots allotted to miners in whose favour the initial allotments were made and if so, whether said Gora Punja has then granted permission to unauthorised persons and the Government is deprived of the revenue of the

same.

To consider the above question, the petition does not assist the court. It is not shown in the petition as to which are the plot holders who are deprived of their plots. It is also not shown that who are the plot holders now holding the plots in place of the original allottees and the revenue for the same is not paid by them. If any revenue is not paid by the plot holder, then the liability of the plot holder will arise to whom the allotment is made. It appears that no action has been taken by the alleged deprived plot holders, but the petitioners and some have complained for the same. It is made clear that persons who were plot holders have gone away from village Dungerpur. Whether they have gone away on their own or not, is not known. All these allegations without any foundation and vagueness, cannot call for any action against the Government or any direction is required to be issued to the Government officers to enquire into the same. It is surprising that the petitioners have not joined said Harijan Gora Punja as a party in this petition. If he was joined as a party, then he would have made it clear before the court whether there is any substance in the allegations made by the petitioners or not. Not filing of the affidavit-in-reply itself, in my opinion, is not sufficient to accept the averments made in the petition inasmuch as the averments in the petition not supported by necessary details do not create confidence in the mind of the court to accept the same.

In view of the above state of affairs, no direction sought for can be given to the Government and the petition is liable to be dismissed

In the result, the petition is dismissed. Rule discharged. No costs.
